

Commodity Credit Corporation, USDA

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the land, immediately before the foreclosure, exercises a timely right of redemption from the mortgage holder in accordance with State law;

(iii) As determined by the Deputy Administrator, the circumstances of the acquisition are such that present adequate assurance that the new owner of such eligible land did not acquire such land for the purpose of placing it in the CRP; or

(3) If a tenant, the tenant is a participant with an eligible owner or operator.

(b) Notwithstanding paragraph (a) of this section, under continuous signup provisions authorized by §1410.30, an otherwise eligible person must have owned or operated, as appropriate, the eligible land for at least 12 months prior to submission of an offer.

§ 1410.6 Eligible land.

(a) In order to be eligible to be placed in the CRP, land:

(1) Must be cropland that:

(i) Has been annually planted or considered planted to an agricultural commodity in 2 of the 5 most recent crop years, as determined by the Deputy Administrator, provided further that field margins which are incidental to the planting of crops may also be considered qualifying cropland to the extent determined appropriate by the Deputy Administrator; and

(ii) Is physically and legally capable of being planted in a normal manner to an agricultural commodity, as determined by the Deputy Administrator.

(2) Must be marginal pasture land, as determined by the Deputy Administrator, that:

(i) Is enrolled or has recently been enrolled in the WBP provided:

(A) The acreage is in the final year of the WBP agreement or, if not in the final year of the WBP agreement and only for enrollments in the CRP for FY 1997, is acreage for which the WBP agreement expired on December 31, 1996, where the land would be considered in compliance if such agreement was still in effect, as determined by the Deputy Administrator;

(B) The acreage is not classified as naturally occurring type 3 through 7 wetlands, as determined by the Deputy Administrator regardless of whether

the acreage is or is not protected by a Federal agency easement or mortgage restriction (types 3 through 7 wetlands that are normally artificially flooded shall not be precluded from eligibility), and;

(C) Enrollment in CRP would enhance the environmental benefits of the site, as determined by Deputy Administrator; or

(ii) Is determined to be suitable for use as a riparian buffer. A field or portion of a field of marginal pasture land may be considered to be suitable for use as a riparian buffer only if, as determined by NRCS, it:

(A) Is located adjacent to permanent stream corridors excluding corridors that are considered gullies or sod waterways; and

(B) Is capable, when permanent grass, forbs, shrubs or trees are grown, of substantially reducing sediment that otherwise would be delivered to the adjacent stream or waterbody; or

(3) Must be acreage currently enrolled in the CRP provided the scheduled expiration date of the current CRP contract is to occur before the available effective date of a new CRP contract, as determined by the Deputy Administrator, provided the acreage is otherwise eligible according to this part, as determined by the Deputy Administrator.

(b) Any land qualifying under the provisions of paragraph (a)(1) must also, to be eligible for a contract:

(1) Be a field or portion of a field determined to be suitable for use as a permanent wildlife habitat, filter strip, riparian buffer, contour grass strip, grass waterway, field windbreak, shelterbelt, living snowfence, other uses as may be determined by the Deputy Administrator, vegetation on salinity producing areas, including any applicable recharge area, or any area determined eligible for CRP based on wetland or wellhead protection area criteria to be eligible to be placed in the CRP. A field or portion of a field may be considered to be suitable for use as a filter strip or riparian buffer only if it, as determined by NRCS:

(i) Is located adjacent to a stream, other waterbody of a permanent nature (such as a lake, pond, or sinkhole), or

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wetland excluding such areas as gullies or sod waterways; and

(ii) Is capable, when permanent grass, forbs, shrubs or trees are grown, of substantially reducing sediment that otherwise would be delivered to the adjacent stream or waterbody; or

(2)(i) Be a field which has evidence of scour erosion caused by out-of-bank flows of water, as determined by NRCS. In addition such land must:

(A) Be expected to flood a minimum of once every 10 years; and

(B) Have evidence of scour erosion as a result of such flooding.

(ii) To the extent practicable, be the actual affected cropland areas of a field; however, the entire cropland area of an eligible field may be enrolled if:

(A) The size of the field is 9 acres or less; or

(B) More than one third of the cropland in the field is land which lies between the water source and the inland limit of the scour erosion.

(iii) If the full field is not eligible for enrollment under this paragraph (b)(2), be that portion of the cropland between the waterbody and the inland limit of the scour erosion together with, as determined by the Deputy Administrator, additional areas which would otherwise be unmanageable and would be isolated by the eligible areas.

(iv) Be planted to an appropriate tree species according to the FOTG, unless tree planting is determined to be inappropriate by NRCS, in consultation with Forest Service, in which case the eligible cropland shall be devoted to another acceptable permanent vegetative cover in accordance with the FOTG; or

(3) Be contributing to the degradation of water quality or posing an on-site or off-site environmental threat to water quality if such land remains in production so long as water quality objectives, with respect to such land, cannot be obtained under other Federal programs, including but not limited to EQIP authorized under part 1466 of this chapter; or

(4) Be devoted to certain covers, as determined by the Deputy Administrator, which are established and maintained according to the FOTG provided such acreage is not required to be maintained as such under any life-span

obligations, as determined by the Deputy Administrator; or

(5) Be non-irrigated or irrigated cropland which produces or serves as the recharge area, as determined by the Deputy Administrator, for saline seeps, or acreage which is functionally related to such saline seeps, or where a rising water table contributes to increased levels of salinity at or near the ground surface; or

(6) Be considered HEL according to conservation compliance provisions under part 12 of this chapter; or

(7) For redefined fields, have an EI of greater than or equal to 8, calculated by using the weighted average of the EI's of soil map units within the field; or

(8) Be within a public wellhead protection area or in an approved Hydrologic Unit Area; or

(9) Be within a designated conservation priority area; or

(10) Be designated as a cropped wetland and appropriate associated acreage, as determined by the Deputy Administrator; or

(11) Be cropland which, as determined by the Deputy Administrator, is associated with noncropped wetlands and would provide significant environmental benefits; or

(c) Notwithstanding paragraphs (a) and (b) of this section, land shall be ineligible for enrollment if, as determined by the Deputy Administrator, land is:

(1) Federally owned land unless the applicant has a lease for the contract period;

(2) Land on which the use of the land is restricted through deed or other restriction prior to enrollment in CRP prohibiting the production of agricultural commodities except for eligible land under paragraph (a)(2) of this section; or

(3) Land already enrolled in the CRP unless the scheduled expiration date of the current contract is to occur before the available effective date of a new CRP contract, as determined by the Deputy Administrator.

§ 1410.7 Duration of contracts.

(a) Except as provided in paragraph (b) of this section, contracts under this part shall be for a term of 10 years.